Edn. & P.H. (1938) Department.

Ms. SERIES.

G.O. No. 3353 P.H.,

DATED 21-9-1938.

[Despatch Abstract.]

Endowments - Religious - Vishnumurti Temple, Yadyadi Mathyadi, Udipi Taluk, South Kanara - Payment of allowance on Inam Title deed to heriditory trustee Notice of suit - Replied to.

Chief Secy

E M & B...

31428

To

The Chief Secretary
Government of Madras

CW

UNDER SECRETARY TO GOVERNMENT
20 JUL 1938
EDUCATION AND PUBLIC HEALTH DEPARTMENT

ASSISTANT SECRETARY TO G...
20 JUL 1938
CHIEF SECTT.

Suit notice under section 80 of the Act 5 of 1908

Under instructions from Ganapayya Adiga, adopted son of Shivarama Adiga, present successor of the Inam Title-holder and sole hereditary trustee of the Pagoda of Yeddiadi Mathyadi Vishnumurti Dev I have the honour to issue this suit notice as follows:—

Whereas under the rules sanctioned by the Madras Government in the year 1859 and published in the Fort St. George Gazette dated the 4th October 1859, for the adjudication and settlement of Inam-lands in the Madras Presidency Mr. D. Arbuthnott had acknowledged the title of Ananta Adiga (Great grand father of my client). then trustee or manager to a devadayam or Pagoda [illegible] inam consisting of the right to the Government revenue amounting to Rs 22-0-0 on the worga No 1 named Kudal Chikkayya Shetti situated in the village of Naradi in the Magane of Nalwattanad Taluk of Udipi for the support of the aforesaid Pagoda

MV

PS infra

YH

2 . This Inam has been confirmed to the said Anantha Adiga and his successors tax free. The Board of Hindu Religious Endowments, Madras has interfered with this personal and hereditary right of my client by appointing one Subraya Adiga who has filed a suit O.S.No 212/1938 on the file of the District Munsif, Coondapoor against the pattadars of Warga No 1. The Madras Act II of

A

1927 has not abrogate this private and hereditary right of my client confirmed by the Inam Commissioner. And the Board has no such right or jurisdiction in the above matter. The action of the Board is, therefore, illegal and ultravires. Hence the cause of action

3 If the sanctity of the title-deed is not respected by the Government within the statutory period of two months, a suit will be filed against the Government of Madras the costs and consequence of the Government of Madras for the realization of the arrears of the amounts that have accrued during the minority of my client and from 1932 to the current year 1938.

4 The Title-Deed Number is 669 dated 29th November 1875. Case No 706.

Kokaranth

Coimbatore
17-7-38

E.P.H.

48627
26.7.38

AK
26/7/38

Dy. 1/1 Govt. 31428-1 P.H. (?) dated 21.7.38

Referred to the President, Hindu Religious Endowments Board for remarks at an early date.

(By order)

S R K Aiyar
21/7/38
Under Secy. to Govt.

21/7/38

To
The President,
Hindu Religious Endowments Board,
Madras.

Office of the Board of Commissioners
for Hindu Religious Endowments,
Tele. "Religious". Cathedral Post, Madras.

Letter No. 48627/38-E-1 dated 13-8-'38.

GOVERNMENT OF MADRAS
14 AUG 1938
EDUCA

35134

From

Sri A. Kondappa, B.A., B.L.,
President,
Hindu Religious Endowments Board, Madras.

To

The Secretary to Government,
Education and Public Health Department,
Fort St. George, Madras.

Sir,

Sub:- Sri Vishnumurthi temple - Yadyadi Mathyadi - Coondapur Taluk - South Kanara District - Suit notice by Sri K.S. Karanth on behalf of his client Gorappaya Adiga.

Ref:- Endorsement No. 31428-1 P.H. (F) dated 21-7-'38.

The Vishnumurthi temple, Yadyadi Mathyadi, Coondapur Taluk, referred to in the petition forwarded by Government ~~is~~ is a minor one with no income except a tasdic of Rs.22/- paid to the temple by Government. In its order No. 1576 dated 31-10-1932, the Board appointed one Subraya Adiga as trustee of the temple for a period of five years as the South Kanara District Temple Committee was not functioning. It is now contended by the petitioner that trusteeship is hereditary in his family, that Government granted to the family a devadayam Inam consisting of Rs.22/- a year and that the Board's order appointing Subraya Adiga as trustee constitutes an interference with the hereditary right of the petitioner. From a copy of the Inam title deed sent to the Board by the petitioner (copy enclosed) it is seen that the inam was granted to Anantha Adiga in his capacity of manager for the time being of the temple in question. Therefore, the inam grant ~~is~~ belongs to the temple. The trustee for the time being is entitled to receive it. The grant is not a personal one and the petitioner is not entitled to it irrespective of whether he is trustee or not.

The petitioner's adoptive father Shivarama Adiga was a trustee appointed by Shivalli Temple Committee and received a sannad therefrom. There are no materials on which it can be stated that the petitioner's adoptive father had any hereditary right to trusteeship. Therefore, the order appointing Subraya Adiga as trustee was proper. Besides the petitioner was a minor on the date of his adoptive father's death and so even if petitioner is a hereditary trustee the Board could appoint a suitable trustee.

The term of office of the said Subraya Adiga has expired and the petitioner at his request has been appointed as trustee and the order is under issue. p7 infra By virtue of the said appointment the petitioner will be entitled to receive the tasdic from the Revenue Department. The petitioner may be directed to move the Board if he is so advised for a declaration that the temple in question is an excepted temple of which he is the hereditary trustee.

The original petition forwarded by Government is retransmitted herewith.

I have the honour to be,
Sir,
Your most obedient servant,
A. Kozhiappa
President.
13-8-1938

K.S.R.

Encl:-2

Governor in Council of Madras. (Seal).

No. 669.

Title Deed granted to Anantha Adiga, Manager for the time being of the Pagoda of Yadyadi Mathyadi Vishnumurthi Dev.

1. By order of the Governor-in-Council of Madras acting on behalf of the Secretary of State for India-in-council, I acknowledge your Title to a Devadayam or Pagoda Inam consisting of the right to the Government revenue amounting to ₨.22-0-0 (Twenty two) on Wurg No. 1 named Kudal Chikkaya Shetti situated in the village of Naradi in the ~~name~~ magane of Nalvattanad, Taluk of Udipi, District of South Kanara and now held for the support of the above Pagoda.

2. This Inam is confirmed to you and your successors, tax-free, to be held without interference so long as the conditions of the grant are duly fulfilled.

Dated
Madras,
29th November 1875.

(Sd). *******
Inam Commissioner.

Case No. 706.

Inam Commissioner,
Madras.
Seal.

True Copy.

K.S.R.

Copy.

25-6-'36

[illegible]

EDUCATION AND PUBLIC HEALTH DEPARTMENT
18 AUG 1938

Office of the Board of Commissioners
for Hindu Religious Endowments,
Cathedral Post, Madras.

35730

Post copy of Telephone Message dated 17-8-1938.

From

The President,
Hindu Religious Endowments Board,
Madras.

To

The Under-Secretary to Government,
Education and Public Health Department,
Fort St.George, Madras.

Ref: Your Telephone Message of date asking for a copy of the order appointing a trustee for Sri Vishnumurthi temple, Yadyadi Madyadi, Coondapur taluk, South Kanara district.

A copy of Board's order No. 1896 B dated 9-8-1938 is being sent separately.

K. Narayana Menon

For President.

Encl. 1 B.O.

J1/17/8.

17.8

Office of the Board of Commissioners
for the Hindu Religious Endowments,
[illegible]

In the matter of the administration of Sri Vishnumoorthy
Temple, Kedyoor [illegible] Village, [illegible] Ta., S. Kanara Dt.

Read Report No. 613/37-A dated 18-2-38 of the Asst.
[illegible], H.R.E., South [illegible] District.

Board's Order No. 1228 [illegible] dated 9-4-38.

In virtue of the powers vested in it by sections 18, 51 and 60-A of the Madras Hindu Religious Endowments Act 1926, the Board hereby appoint Sri Gannappayya [illegible], adopted son of [illegible], residing at [illegible], Kedyoor [illegible] Village, [illegible] post, [illegible] taluk, South [illegible] District as a trustee of the temple for a period of five years from the date of this order.

The newly appointed trustee will enter upon his duties forthwith and administer the affairs of the temple according to the [illegible] satisfaction of the worshipping public.

He will further see to the submission of annual budgets and registers of properties under section 38 of the Act and follow in all matters concerning the temple the provisions of the Madras Hindu Religious Endowments Act 1926, the rules [illegible] framed under it.

K. Narayana Menon.
[illegible] Secretary.

[illegible] 17-S.
To

Sri Gann[illegible] son of [illegible],
residing at [illegible], Kedyoor [illegible] Village,
[illegible] post, [illegible]
2. [illegible]
3-4. Asst. [illegible], H.R.E., [illegible] with [illegible]
[illegible]
5. [illegible] Section.
7 & 8. Stock File. 9 & 10. [illegible]

E & P. Hdqrs

C.No. 31428 F From Sri K. S. Kamath, Coondapur d. 17.7.38

.. 35134 From the P. H.R.E.B. 48627 d. 13.8.38

H.R.E. Act — Vishnumurti temple, Yadyadi Mattyadi, Coondapur taluk. Appointment of Ramappaiyya Adiga as hereditary trustee — suit notice

In 1875, a title deed was granted to one Anantha Adiga, manager for the time being of the Pagoda of Yadyadi Mattyadi Vishnumurti Dev, Coondapur Taluk, S. Kanara dt., and his title was acknowledged to a devadayam or pagoda inam consisting of the right to a Circar revenue of Rs 22/- on certain lands held for the support of the temple. The inam was confirmed to him and his successors tax-free to be held without interference so long as the conditions of the grant were duly fulfilled. One Shivarama Adiga who was appointed as trustee by Shiralli temple committee and who received a sanad therefrom died leaving his

p 4c f

his adopted minor son Ganappayya Adiga.

On 31-10-32 when the S. Ramana Temple Committee was not functioning, the HRE Bd. appointed under section 60-A of the HRE Act, p 3 cf one Subbaraya Adiga as a trustee of the temple for a period of five years. Sri K.S. Kamath, Advocate Coondapur, has on behalf of his client, Ganappayya Adiga, given notice of a suit for the realization pp 1-2 cf of the arrears of amounts that accrued during the minority of his client, and from 1932 to 1938.

2. The Pt. HRE Bd. says that as Ke. inam was granted to Anantha Adiga in his capacity as manager for the time being of the temple in question, the inam grant belongs to the temple and the trustee for the time being is entitled to receive it. p 3 cf K He adds that the grant is not a personal one and that Ganapayya Adiga is not entitled to it irrespective of whether he is trustee or not. In its order No. 4896 B p 11 cf Dt 9.8.38, the HRE Bd. has, however, appointed Ganappayya Adiga as trustee

trustee for a period of five years. The Pl. says that he may be directed to move the B.S., if he is so advised for a declaration that the temple in question is an excepted one of which he is the hereditary trustee.

3. From the copy of the Title deed on p. 5 c.f. it is doubtful whether the interpretation of the B.S. at K on ante p. 2. is quite correct. The remarks of Rev and Legal may be obtained.

U.O.

22-8-38

22/8/38

A on page 3 cf does not seem to be the correct intrepretation of the Inam titledeed copy on p 5 C.f.. ~~There was another occasion~~

Rev & Legal may see for remarks.

SRK
22/8/38

S.

24/8/38
Rev
Legal

SRY
23/8

ASSISTANT SECRETARY TO GOVT.
Rev 4479 B
23 AUG 1938
23.8.38

23/8

U.O. 31428-2 R
23/8/38

Rev Dept

To AS

Please see the notes from p 1 ante. ~~Memo p 3 c.f. does not seem to be a correct interpretation of the original title deed, copy of which is at p 5 c.f. The remarks of the Board of Rev may however be called for. A draft endt is submitted for approval.~~

Ds 25/8/38

OK 25/8/38

This Dept may agree with the E & P.H that the interpretation put on the terms of the title-deed by the President, H.R.E. Board is incorrect. The title deed clearly lays down that the inam covered by it is confirmed to ~~the~~ Anantha Adiga and his successors to be held without interference so long as the conditions of the grant are duly fulfilled.

p 5 C.F.

What are the conditions of the grant?

27/8

It is not clear what the President means when he refers to a Dastik of Rs 22 paid by Govt. The title deed on p 5 C.F. refers to an inam land the revenue from which constitutes the inam.

The file may be passed on to Legal.

26-8-38

To AS.

Please see Secy's query in the margin on p 4 ante. A copy of the title deed is at p 5 cf. From para 2 of the title deed it will be seen that the inam is confirmed in the name of Anantha Adiga and his successors tax free to be held without interference so long as the conditions of the grant are duly fulfilled. There is no information as to what the conditions of the grant are. The inam is said to have been held "for the support of the Pagoda" referred to in the title deed. ~~The Board of Rev may be asked about it. A draft one is sub'd for approval.~~

at p 5 cf

The only condition of grant mentioned in the title deed is "support" of the pagoda.

P.K.
29/8/38

29.8.38

29.8.38

I am inclined to think that if the descendant ceased to be a Buddhist, the condition of the grant might be incapable of fulfilment & the grant might be resumed. But there must be a number of such grants & presumably the terms of the similar grants must [illegible] at some time or another be interpreted by the Cts. The question is which one on which Legal will be best able to advise

30/8

R. no. 4479 B
30-8-38

ASSISTANT ... 31 AUG 1938 LEGAL DEPARTMENT

5923 B

Legal Department.

p s c f

The grant in this case was in favour of Anantha Adiga, Manager of the Pagoda, to be held by him and his successors without interference so long as the conditions of the grant are duly fulfilled. The only condition which can be inferred from the title deed is that ~~the grant is~~ implied in the expression "for the support of the Pagoda". It ~~is~~ was clearly not a grant to ~~he~~ the Pagoda itself but the grant ~~is~~ was to a named person and his successors for the support of the Pagoda. The expression "Manager for the time being of the Pagoda" following the name of the ~~[illegible]~~ grantee should be construed as only descriptive of the grantee. So long as the conditions of the grant are duly fulfilled, the inam cannot be resumed even though the holder of the inam has ceased to be a trustee of the temple.

AA

13/9

EDUCATION ... DEPARTMENT 15 SEP 1938

Ext 16/9/38

Leg. no. 5923-1
15-9-38

40092

E+P. Hd/6

Please see U S's note on p 3 ante and the notes of the Revenue and Legal Secretaries on pp 5-6 ante. ~~A draft order is submitted for approval. Rev. may see before issue~~ Legal Secy holds that the publication of the Pt. II R 2. Board at A on p. 3 cf is incorrect. Furthermore the Pt II R 2 does not require to refer to suit should it be filed. ~~[illegible]~~ may refer to the suit notice on pp 1-2 cf. Revenue may see before issue of order.

ml
15-9.38

portion AA on p back

JD
15.9.38

Forward this

Please see AA on page 6 ante. It is clear therefore that the 'trust is a heriditary one'. Moreover as ~~so~~ the grant is not for the temple but to a person for the support of the temple, ~~therefore~~ this is a service Inam. It seems ~~to be~~ therefore that even if the Petr. was correct in saying that the grant was for the temple, he misintrepreted the terms of the grant and deliberately ~~applied~~ invoked the provisions of Chapter V, which does not apply to excepted temples (Please see Section 49). A remedy for this is provided for by Section 84.

But the contention of the petitioner is that the private & hereditary right has been tampered with. This seems to be the case from ~~what~~ what Legal advise at "AA" on page 6 ante. There is a remedy for breach of condition of service provided for by Section 44 B of the Act, and the H.R.E. Board could very well have worked it.

~~When~~ The HREBd ostensibly takes action under Sections that are clearly not applicable to the case. The Govt does not seem to have any powers of interference. The petitioner may seek ~~such~~ redress in a Court of Law if he is so advised.

Draft order below, Legal & Rev. may see before issue.

I believe I am right in saying that Govt. have no powers of interference. Legal ~~may~~ will no doubt advise on this. ~~please confirm~~.

SRK
16/9/38

S.
16/9/38

Legal
Rev

Legal
Revenue

No. 3/428-3 F
16/9/38

6340.
-16 SEP 1938
3. P.M.
LEGAL

Legal Dept

I agree that the Govt have no powers of interference in this matter.

If the order passed by the H.R.E. Board is illegal as being in contravention of the Act, I think only the Board itself should [illegible] the order.

16/9

Rev 4871 B.
17-9-38

Legal no. 6340-1
18.9.38 2.25 PM

15/9

Rev no 4871 B/38-1
17-9-38

5/1899

Rev

Rev Dept

May be perused & returned to E.P.H.

17.9.38

E.P.H.

17 10 Edn SP d

Please see the remarks of Legal Secy on page 9 ante.

Two courses are open to the Govt. One is to advise the HRE Bd that its action is ultra vires of the Act and at the same time we may tell ~~telling~~ the petitions simply "Govt have no powers of interference under the Act". A.

The other is for the draft G.O. below to issue as it stands. I would prefer the former. For there is nothing to prevent Govt. from advising the Board, Act or no Act. B.✓

For orders.

SRK
19/9/38.

S.

A. We may do this & tell them why it is ultra vires.

19/9/38

A draft order & a drft do ~~is~~ are submitted for approval

19-9-38

19.9.38.

SRK
20/9/38

S.

20/9/38

Issue d/s 18 Ex P. Hafl.

36-37 / 21/9

C.F. 10.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying		21/9
When copied		
When examined..		
When signed		
When despatched.		

SUBJECT :— ~~Hindu Religious~~ Religious Endowment ~~Endowments~~ — Vishnumurti Temple, Yadyadi Mathyadi, ~~Coondapur~~ Udipi Taluk, S. Kanara — Payment of allowance on Inam Title deed to hereditary trustee — Petition by Sri — Reply.

READ AGAIN ________________, dated ________________ 19___.

" " ________________ " ________________ 19___.

READ *ALSO* :—

No. 31428 From ~~the~~ Sri K. S. Karanth, Advocate, Coondapur, No. ______, dated 17-7-1938.

" 35134 " Pt. HRE Bd " 45627 " 13-8-1938.

" ______ " ______ " ______ " ______ 19___.

Order Ms. ~~Resolution~~ ~~Rout.~~ No. 3353 P.H, dated 21-9-1938.

I

The petitioner is informed that the Govt have no powers of interference under the Madras Hindu Religious Endowments Act.

SAY 20/9/38

~~2 The Pt. HRE Bd~~ ~~is informed that the action of the Board in regard to the Vishnumurti temple, Yadyadi Mathyadi, Udipi Taluk S. Kanara is ultra vires of the Madras Hindu Religious Endowment Act, 1926, in as much as the provisions of Chapter VI of the Act which does not apply to excepted~~

PTO

(These may be embodied in a D.O.)

Sep. D.O. submitted

21/9

p 10 n f

~~excepted temples, have been invoked instead of the provisions of Section 84.~~

p8 ng

ml
19.9.38

JP
19.9.38

To

Ganapayya Adiga [illegible]
Sri K. S. Karanth, B.A., B.L.
Advocate,
Coondapur
S. Kanara
~~([illegible])~~

.. Pl. HRE Bd
(~~with copy of suit notice~~
with copy of suit notice

ii. The Board of Rev.
(with a copy of the Suit Notice)
pp1-2 cf
[illegible]

Dpd. by Van / Post / Messenger
Dpr.'s initials. M
Date 22 9 1938

Draft II.

Edn.& P.H.Dept.

D.O. No. 31428-4F, Dt 20.9.38

Dear Mr.Kondappa,

Sri Vishnumurthi temple, Yadyadi Mathyadi-Coondapur Taluk-South Kanara Dt.-Notice of Suit -Sri K.S.Karanth on behalf of Ganapayya Adiga.

I am desired to invite your attention to your letter no. 48627/38-E-1 dated 13-8-38 and to say that the intrepretation ~~inxpxxx~~ of the terms of the grant as set out in ~~paxagxap~~ paragraph 1 is not strictly correct. The grant in this case was in favour of Anantha Adiga,Manager of the Pagoda, to be held by him and his successors without interference so long as the conditions of the grant are fulfilled. The only condition ~~that~~ which can be inferred ~~is~~ is that implied in the expression "for the support of the Pagoda". It was clearly not a grant to the Pagoda itself but to a named person for the support of the Pagoda. The expression "Manager for the time being" following the name of ~~t~~ the grantee should be construed as only descriptive of the grantee.So long as ~~t~~ the conditions of the grant are fulfilled the inam cannot be resumed even though the the holder has ceased to be the trustee of the temple.I am ~~also~~ therefore desired to invite your attention to Section 44B of the Act and to ~~xmggext~~ request you to be so good as to to take steps to revise H.R.E.Board's orders

(page 6 NF. Legal Dept's opinion.)

NO.

No.1896 B dated 9-8-38 on the subject.

Yours sincerely,

SRK
20/9/38

20/9/38

Sri A Kandappa,
B.A., B.L.
Prt. H.R.E. Bd.

Dpd. by Van / Post / Messenger
Dpr.'s initials.
Date 21-9 1938

There was a case
re: to some Inam
in S. Kanara
which was resumed
by the Coll. We wrote
a D.O. What happened?

SRU
25/10/38

Resubmd.

2. The U.S. evidently refers to the D.O. on pp 19-20 of G.O. No. 3353 P.H.) 21.9.38 placed below in which the Cl. was asked to take steps to ~~revise~~ the orders of the H.R.E.Bd.
It is not known whether the orders have been revised.

MC
27.10.38

Please put up a D.O. reminder on what he proposes to do. Govt cannot tolerate—

J
27/10/38

interference with land tenure.

SRK
28.10.38

A draft D.O. is submd for approval.

ull
29.10.38

31/10

31.10.38

Edn & P.H. dept

6/411

17!

D.O. No. 47139-1F d 31-10-38

Appointment of trustee of Yadhyadi Matyadi Sri Vishnumurti temple

R 2/11/38

Dear Mr. Kendappa,

Ⓕ p 19 of f.o 3353 P.H. 21-9-38

Please refer to Mr. Madiman's D.O. No. 31428-4F d 21.9.38 on the above subject. I am ~~to enquire what~~ ~~it is~~ ~~you~~ ~~you~~ ~~propose~~ ~~proposed to do in the matter.~~

~~yours sincerely~~

to request you to say if any action has been taken in the matter.

~~At~~ Yrs sin

DRK
31/10/38

To

Sri A. Kendappa B.A., B.L.,
President
H.R.E. Bd.

ull
29.10.38

JD
31-10-38

Dpd. by Van / Post / Messenger
47139 Despr. Initials
Date 1-XI-1938

D.O.No.47139-1 F.

Education & P.H. Department.

Fort St.George,
Dated the 31st October 1938.

Dear Mr. Kondappa,

Appointment of trustee of Yadhyadi Matyadi
Sri Vishnumurti temple.

*****

Please refer to Mr. Masterman's Demi-Official No.31428-4 F., dated 21st September 1938 on the above subject. I am to request you to say if any action has been taken in the matter.

Yours sincerely,

Sri A.Kondappa, B.A., B.L.,
President, Hindu Religious EndowmentsBoard.

*****

Cm. 1/11:

~~E. P.H. Dept~~

D.O. No. 47139-2 F.P.H. dated 30-1-39.
Ref

Dear Mr. Kondappa,

Ref ~~my~~ Mr. Kaiwar's D.O. reminder No. 47139-1 F. dated 31-10-38 ~~[illegible]~~ and my ~~[illegible]~~ D.O. No. 31428-4 F. dated 21-9-38 on the subject of the appt of trustee of Jadhyadi Matyadi Sri Vishnumurti temple.

Would you kindly let me know what action has been taken in the matter.

RK
28/1/39

JP
28/1

Yours Sincerely

SRK
30.1.39

S. [illegible] 31/1/39

To,
Sri A. Kondappa B.A.B.L.
Pt. H.R.E. Bd.

R. 9.3.39.

despd Sy 31-1

44860

D.O.No.48627 E.3./38

Office of the Board of Commissioners
for Hindu Religious Endowments,
Mylapore P.O. Madras.

Dated: 2nd Feb. 1939.

Dear Mr. Masterman,

Subject: Sri Vishnumurthy temple - Yadyadi Mathiyadi Coondapur taluk - South Kanara Dt., - notice of suit on behalf of Ganapayya Adiga.

Subsequent to the receipt of your D.O.No. 31428.4.F. dated 20-9-1938, the Board received a lawyer's notice issued on behalf of Ganapayya Adiga threatening a suit for damages in respect of the subject matter disposed of in Government Order No.M.S.3353 P.H. dated 21-9-1938. Besides, in an appeal to which the Board was a party the High Court had interpreted an inam grant similar to the one under reference as a grant to the temple. Therefore so as to make sure as to what attitude should be taken in respect of the aforesaid lawyer's notice the Board obtained the legal opinion of its standing counsel at Madras on the interpretation of the terms of the inam grant in question. A copy of the opinion is enclosed. P8-A

The construction placed on the grant on the strength of the decisions of the High Court is that the grant is to the temple represented by the manager for the time being and that the trustee or the manager for the time being will be entitled to be in possession of the inam on behalf of the temple.

The complaint contained in the suit notice under reference is that Subraya Adiga, the trustee appointed by the Board in its Order dated 31-10-32 has filed a suit in O.S.No.212 of 1938 on the file of the District Munsiff, Coondapur for arrears of the inam and that the appointment of the said person as trustee constitutes an interference with the hereditary right of Ganapayya Adiga. As stated in my letter to Government No.48627/38.E.1. dated 13-8-1938, Ganapayya Adiga was a minor on the date of the appointment

P3 - Ⓕ

P.T.O.

of Subroya Adiga and no claim was put forward that the trusteeship was hereditary and the temple was an excepted one. Therefore, the Board's Order appointing Subroya Adiga as trustee was proper.

The period of office of the said Subroya Adiga has expired and in the vacancy thereby caused the Board has appointed the petitioner Ganappayya Adiga as the sole trustee of the temple. The order has been duly communicated to the Revenue Department. By virtue of the said order the petitioner will be entitled to the benefit of the inam grant in question and he has thus no cause for complaint.

Proceedings for the resumption of the inam are not under contemplation. The Board's order No. 1896-B dated 9th August 1938 relates only to the appointment of Ganappayya Adiga as trustee and does not therefore appear to require any revision.

Yours sincerely,
A. Kondappa
2 - 2 - 1939

To

C. H. Masterman Esq., I.C.S.,
Secretary to Government of Madras,
Education and Public Health Department,
Fort St. George, Madras.

Encl. 1.

OPINION.

D.O.No. 48627/38-E-2 dated 25-11-1938.

This is one of the clearest cases of a grant to the temple. It falls under the second class enumerated by Ramesam J in 27 L.W. 101 at 109 i.e., "where the grant is made to a person in the capacity of .. manager .. of the temple and where it does not appear that there is some other trustee it may be regarded as a grant to the temple .. itself".

The case is practically governed by the recent decision of a Bench in 1937) 2 M.L.J. 830. The title deed in that case was exactly similar to the title deed now in question. It was granted to the ancestor of the appellants therein as the manager for the time being of the temple. Paragraph 2 of the grant therein is the same in both cases word for word viz.,

"This inam is confirmed to you and your successors tax free to be held without interference so long as the conditions of the grant are duly fulfilled."

Their lordships held that the grant was to the temple itself. At page 832 they say "it will be observed that the grant was to the manager and to his successors and not to the great-grand-father of the appellants and his heirs".

A perusal of the extract from the Inam Register rela.ting to this inam will also be of use in determining the nature of the grant. It may be obtained and sent to us.

But from the title deed it is clear that the grant is to the temple represented by the manager for the time being. It follows that any one who is not the manager for the time being is not entitled to be in possession of the inam.

P.T.O.

We do not understand, however, how any question of resumption can arise. So long as the temple in question is in existence the inam cannot be resumed by Government. The trustee or manager for the time being will be entitled to be in possession of the inam on behalf of the temple.

~~Madras~~ (True copy).

~~28th November~~

E & H

Please see the D.O. reply of Mr. Kundappa on pp. 6-9 ante.

2. For orders whether in the circumstances stated therein, the point will be pursued further. Legal may see first.

HRao

J.D.
22/2/39.

SRK
22/2/39

Legal.

E&H. Dept No 3142-38-E&H. F.
22-2-39

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1273.

23 FEB 1939

See M, p. 9 ante

Legal Department

The previous order of the Board, appointing Mr. Subraya Adiga, has expired, and Mr. Ganapayya Adiga has now been appointed as the trustee of the temple. No difficulty is likely to arise hereafter and no further action seems necessary in this case.

K. M.
4/3/39

Ps
4/3/39 S

E & H

Legal 1273-1
6.3.39.

6 - MAR 1939

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Lodged
Filed with G.O. at (F)

SM
6/3/39.